FIQH OF TOLERANCE

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In The Name of Allah, the Beneficent, the Merciful

Praise be to Allah, Lord of creation, and may Blessing and Peace be upon the noblest of messengers.

To precede,

INTRODUCTION:

This small paper is an attempt to highlight the right guidance in differing according to the theme and methodology of Ahlu Al-Sunnati wal Jamaa'ah. In addition, I made use of the series of the: Centre for Studies of Implementation of Shari'a Law in Islamabad where I have been the head of the department of research.

The fact, brothers, it is not unknown for you that Allah The All Praised and The All High, has ordered in the clear Revelation for unity, co-operation, and not to conflict nor dispute between us, as this may do away with our strength and make some of us taste punishment from others. The All High said, "and do not dispute with each other that you may fail and your strength departs, and be patient. Truly, Allah is with those who are patient." (Surat Al'anfaal 8/46).

Shaykh Al-Islam Ibn Taymiyyiah, may Allah's Mercy be upon him, said, "Such difference that has occurred in this Ummah including its scholars, Shaykhs, Ameers, and elites, is what brought the overpowering of enemies upon it. This is due to their leaving action upon obedience of Allah and His messenger. Whenever people leave some of what Allah ordered

them to the enemy and hatred befall them. When people divide, then they become corrupt and perish, and when they gather, they are rectified and gain rule. For the gathering is mercy, and diversity is torment." [3:419 - 421).

This is an affirmation from the Shaykh, may Allah's Mercy be upon him, that adhering to the congregation, and amicability is from the fundamentals of This Faith, therefore, the fundamental matter should not be diminished to preserve the lesser matter. Imam Et-Tahawi confirmed this meaning in his book on "Aqeedah" or Islamic creed and considered it to be one of the fundamentals of Ahlu Sunnahti wal Jama'ah and said: "We follow the Sunnah and

the congregation (Jama'ah) and we avoid the odd, the dispute, and dividing" 2/ 208.

We shall attempt in these few pages to clarify the matters of difference and their types, be they based upon major maters of difference or partial matters, or be they from matters of reasoned opinion, Ijtihad, or definite fundamentals. We then discuss the manner of dealing with the one who is different, and guiding difference rightly according to the light of Islamic legislative rules.

They are as follows:

Types of difference:

Difference divides according to the mater disputed, into three types:

First type: Difference in branch matters and issues of Ijtihad.

Second type: Difference in fundamentals of faith and ways of belief.

Third type: Difference in political opinions and areas of activism.

The learnt Ibn Abi Al-Izz, the Hanafi, said: "Basically, the types of difference and deviations are two: difference of variation and difference of contradiction." 2/289.

The difference of variation have further subdivisions, in some of which each one of the opinions or actions is truly a legislative right as the case of the Qiraāt (the different ways of recitation of the Holy Quran) upon which the companions (R) differed. ...and you find a difference among many people in this Ummah that lead some parties of them to fight on reading Iqamah once or twice! And this indeed in is the unlawful.

As for the difference of contradiction, this is the two contradicting opinions, whether in fundamentals or subsidiary issues." 2/289.

In all these three types is what is praiseworthy and what is dispraised. This is described in the following details:

The first type: **Difference in branch matters and issues of Ijtihad:**

Indeed Allah has preordained by His Wisdom for branch maters of this Faith to be liable for opinions, and areas of difference in Ijtihad. So He did not give definite proofs for all Islamic legislative rules. He but made them "thanni" i.e. of more than one meaning, to make matters easy for those who are responsible to act upon them. These

"thanni" matters intrinsically allow for difference about them. Had your Lord willed, He would have made all Islamic legislative texts in a manner that has no room for but one understanding. Had He wanted this, nothing would stop Him. However, He has made them in a manner that is liable for numerous opinions in understanding so that people are not constrained to one way, as a Mercy from Him for His slaves and ease for them. So if the Ummah is constrained by one of the ways, math'habs, of one of the jurist Imams, at a particular time, and in a particular matter, one would find in another math'hab expanse, gentleness and ease in the light of Islamic legislative proofs. This is why some scholars used to say, "Their agreement is a definite proof, and their difference is a wide mercy." Differing in branch matters has numerous characteristics which we shall surmise as follows:

Characteristics of differing in branch matters:

First: That it is inevitable and there is no way to settle it completely:

This is sue to difference in comprehension and understanding from one aspect, and due to the nature of presented texts in this area that are liable to have more than one understanding, from another aspect. Imam Al-Shaatibiy, may Allah's Mercy be upon him, said, "Truly, Allah The All High has judged with His Wisdom that branch matters in this Faith be liable to have similarities and have a room for different opinions. Theorists have also confirmed that normally one cannot agree upon theories. Thanni issues are liable for differing upon, but in branch matters not in fundamentals and in partial maters not total matters. Consequently, there is no harm in this difference." 3/(2:168)

Imam Ibn Abi Al-Izz, the Hanafi commenting the Hadith: "Indeed the people of the two scriptures divided in their faith into seventy two parties.." He made clear that the masses of those who differ are would perish and that differing is inevitable." 2/288.

Second: It is an ease and mercy:

If the matter of this Ummah becomes constrained in one of the Math'habs, they sought ease in another one, and whoever sees one of the two opinions to be correct, he follows it. Whoever follows those upon the other opinion, he should not be condemned. A man had written a book about differing, so Imam Ahmad said to him,

"Do not call it the book of differing, but call it the book of ease." Some scholars said, "Their agreement is a definite proof, and their difference is a wide mercy." 1/(30:79).

Omar Ibn Abd-Al'azeez, may Allah's Mercy be upon him, said, "It does not please me that the companions of the Messenger of Allah did not differ, because if they gathered upon an opinion and a person differs with them, he would be a deviant. But if they differed and he took by the opinion of one, and another person took the opinion of another, the matter would be easy." 1/(30 80). Azzarkashiy, may Allah's Mercy be upon him, also said, "Know that Allah has not set up definite proofs for all Islamic legislative rules. He has made them 'thanni' meaning to ease upon those who are responsible to act upon this, so that they are not constrained into one math'hab due to the establishment of the definite proof..." **4/** 77.

Third: Those upon it are within the area of mercy, and do not enter the area of dispraised differing.

Allah, The All High said, "and they will not cease to disagree, except whom your Lord's Mercy is upon, and for that did He create them." (Surat Hood 11/118 - 119). So this verse comprised of two parts: People of difference, and those upon whom Mercy is. Regarding the people of difference, they are those who differ in the fundamental of The Faith, such as the Jews, Christians, and Zoroastrians. Entering into this are people of desires of this Ummah, and they are those who agree with other Muslims in the fundamental of The Faith, and have grouped upon some whole principles in which they differed from the congregation of the Muslims.

As for the people of Mercy, they include the people of difference in branch matters, and they should not be described by the words of Allah, "and they remain differing." This is

based upon numerous points of view including: such difference has occurred from those who were given pure mercy, and they are the companions. A group of the righteous predecessors considered difference within the Ummah in branch matters as one of the ways of mercy. Their difference in such matters is accentual and not primarily intended. Therefore, if a person of them differs with one in a matter, he will differ because of searching for the meaning of The Legislator, until if an error is shown, the person would rethink the matter and avoid it (See 5/2.28 and what follows it).

Imam Ibn Abi Al-Izz, the Hanafi regarding this meaning said: "If the dispute between the Ummah in both fundamental and subsidiary issues was not referred to the Allah and His Messenger, the truth would not be clear. Rather the contestants would not be upon clear evidence regarding their matter. If Allah gave them mercy, they would acknowledge each other's (evidence), and no one of them would wrong the other, as was the case with the companions at the time of Umar and Uthman when a dispute in some of the issues of Ijtihad arose. They would acknowledge one another without any oppression. But if they were not given mercy, the dispraised kind of dispute would happen. Then would wrong one another, either by words like considering him Kafir (disbeliever) and Fasiq (Godless & sinful) or by action like prosecution, beating, and killing." **2/** 288.

Fourth: The scholars of the Ummah should not insist upon ending such difference:

Three of the Abbaasid Caliphs (Abu Ja'faru-lmanssoor, his son

Almahdiy, and his grandson Haroon Al-Rasheed) had requested from Imam Malik, may Allah's Mercy be upon him, to impose upon the Ummah what was within *Almuwatta'*, and to seek their full agreement upon it. He did not accept this from them and this was, as Ibn Katheer said, from the perfection of his knowledge and his description of fairness (See: 6/P 30). It is also not known for Imam Malik in his time, that any scholar disputed him in rejecting what such Caliphs called him for. This is regarded in itself an accepted quiet consensus (***Ijma'a Sukuti***).

Fifth: Not declaring sin upon the one differed with in such matters:

What is known about the math'hab (way) of the people of the Sunnah is that there is no sin upon one who performs Ijtihad in such maters even if he errs, and that whoever performs Ijtihad and errs, he has a single reward. From their proofs upon this: is the generality of the words of the Prophet, upon him be Blessing and Peace: "If a judge judges, performs Ijtihad, and he is correct, he has two rewards, and if he judges and he errs he has one reward." (***Fathu-lbaary*** **13**:318). Al'amidiy, may Allah's Mercy be upon him, says in Al'ahkam: "the people of Truth of Muslims agree that sin is not upon those who perform Ijtihad in Islamic legislative rules..." until he said, "and the proof of the people of Truth about this is: what has been conveyed in a continuous chain of transmission without hesitancy nor doubt, and is known by necessity is the difference between the companions in such maters, and the remaining of the difference until the end of their time. No condemnation was issued from any of them, and none of them saw a sin upon

another, not indirectly nor specifically. This is with our knowledge that had anyone differed in the obligation of the five acts of worship, in prohibition of fornication and killing, they would have hastened to show his error and considered him sinful.." 7/(4:244).

Sixth: Permitting acting by that which is less sound and virtuous in such matters, taking care of an accepted Islamic legislative benefit:

This is among the fine details whose understanding is missing amongst many people, despite the great need for it in our present time. This is because Islamic Legislation is built upon achieving benefits and perfecting them, and denying harms and lessening them. Thus if two benefits or two harms are in contradiction, the greater of the two benefits would be achieved on the detriment of the lesser and deriving away the greater of the two harms with the tolerance of the lesser is what is legislated. Based upon this, if the benefit of amicability and adhering to the congregation contradicted some of these branch matters, and it comprised leaving a preferred or Sunnah act, and acting by that which is less sound or virtuous, the benefit of amicability and gathering is regarded as taking priority.

Shaykh-Al-Islam Ibn Taymiyyah, may Allah's Mercy be upon him, said, "It is better for a man to concentrate on making hearts closer by leaving such preferred actions, because the benefit of amicability in The Faith is greater than the benefit of doing the like of this. This is like when the Prophet, may Allah's Blessing and Peace be upon him, left rebuilding The K'abah due to what was therein of making hearts closer by leaving it, and like Ibn Mas'ood in admonishing 'Uthmaan for not shortening the prayer

in travelling and then he prayed behind him not shortening, and he said, "Difference is evil!" 1/(22:407). "And it is reported that Al-Rasheed performed cupping then he sought a ruling from Malik. The later gave the ruling that he did not have to do ablution as a result. Abu Yusuf prayed behind him, and the Math'habs of Abu Haneefa and Ahmad see that impurity coming out of other than the two known routes nullifies ablution. The Math'habs of Malik and Al-Shaafi'y see that it does not nullify ablution. It was said to Abu Yusuf: 'Do you pray behind him?' He said, 'Subhana Allah! He is the Ameer of the believers!' Leaving prayer behind the Imams for the like of this are the signs of the people of innovation, such as the *Raafidhah* and the *Mu'taztlah*. This is why when Imam Ahmad was asked about this, he gave a ruling for the obligation of ablution (after cupping). So the questioner said to him: 'If the Imam did not perform ablution (after cupping), do I pray behind him?!' He said, 'Subhana Allah! Do you not pray behind Sa'eed Ibn Almusayyib and Malik Ibn Anas?!' 1/(20:365 - 366).

Seventh: Difference in branch maters does not interfere in keeping amicability and love for Allah:

It is needless to affirm that difference in branch maters does not interfere with love for Allah nor amicability. Nor does it weaken friendship or support. The scholars of the companions, the succeeding generation, and whoever followed them had, on differing in a mater, would follow the order of Allah, The All High. They used to debate about a mater a debate of consultation and advice, and some of their opinions may have differed in scholarly and practical matters, together with retaining amicability, congregational infallibility and brotherhood in The Faith.

Al-Shaafi'y, may Allah's Mercy be upon him, said, "Malik Ibn Anas was my teacher, from him I took knowledge, and if scholars are mentioned, Malik is a star. There is nobody who took care of me other than Malik Ibn Anas" (Ibn 'Abd Albar's *Al'intiqa'* **p 23**). Al-Qaadi Iyaadh reported in *Almadaarik* saying: "Allayth Ibn Sa'd said: 'I met Malik in Al Madinah. I said to him: I see you wiping sweat from your forehead! He said: I have sweated from Abu Haneefa. He is but a jurist, O Egyptian! Allayth said: Then I met Abu Haneefa, and I said to him: What good words that man had about you (indicating Malik). Abu Haneefa then said: I have not seen a man faster than him in answering truthfully, and criticising fully..) (Ibn 'Abd Albar's *Al'intiqa* **p 16**).

The praiseworthy and the dispraised from such difference:

It has been mentioned that difference in branch maters and maters of Ijtihad definitely occurs. Also, it does not do away with amicability nor love for Allah, nor does sin fall upon the one differed with. He is not admonished, except for whose evidence is weak or what is regarded as one of the shortcomings of scholars. One may also act by what is less virtuous and sound, taking care of a sound Islamic legislative benefit.

There is no doubt that such difference, if remaining in this limitation, is accepted and praiseworthy for what it allows of getting to know all acceptable Islamic legislative possibilities that Islamic legislative proofs point to. It also shows the ease upon this Ummah and mercy for it just as it involves working of intellect, debating opinions, and reviewing matters from different aspects. Hence, the deduction of rules from texts then

widens, the youth of Islamic jurisprudence is revived, and its rules become wide enough for all that is brought up of circumstances and matters.

However, if the difference exceeded this limitation, revolved around the area of dispraised fanaticism, broke through the barrier of brotherhood of belief, and the unity of the Ummah were torn up by it, and the people thereby became parties and groups each of them calling for the writings of the one they followed, having their love and hate for Allah based upon it, and striving in admonishing the one differed with, slandering them with accusations and evil acts, then such difference becomes a severe sickness and recorded evil, and its people would leave the Sunnah and enter difference and misguidance. Imam Al-Tahawi, the Hanafi in this regard says: "If the people missed some of what Allah (SW) sent His Messenger (S) with, they will be either fair or unfair. The fair among them is the one who acts upon what reached him from the traditions of the Prophets and will not oppress the others. And the unfair is the one who oppress the others; and most of them would oppress while they know that they are in fact oppressing, as Allah (SW) said: "And those who were given the scripture did not differ except after knowledge had come to them - out of jealous animosity between themselves;" otherwise, if they followed what they knew, they would have acknowledged one another. This is similar to the followers of Imams of knowledge who know that they cannot get the knowledge of the rule of Allah and His Messenger in such matters. So they considered their Imams as deputies of the Messenger of Allah (S) and said: this is what we can afford. Therefore, the one who is fair among them will not wrong the other with words or actions like claiming that the opinion of the one he follows is right without

giving evidence and he condemns the one who differs with him although this one is pardoned." 2/ 288-289.

Thus difference in branch maters and issues of Ijtihad can only be praiseworthy in the limitation mentioned at the beginning of the study. It is dispraised if it comes out of this limitation taking on one of the following forms:

1. Difference leading to splitting, argument, and tearing up the unity.
2. Excessiveness and fanaticism towards works of the Imams making them a standard for The Book and The Sunnah.
3. Establishing love and hate for Allah based on such works.
4. Difference where each group claims that it is upon The Truth, criticising in it the belief and the sanctity of the one differed with.

Shaykh-Al-Islam Ibn Taymiyyah, may Allah's Mercy be upon him, said, "and it is not for anyone to set up for the Ummah a person, calling to his way, befriending and taking up enemies over this, except over the Prophet, may Blessing and Peace be upon him. One should not set up their speech to befriend and take up enemies over, except over The Speech of Allah and His messenger and what the Ummah has gathered upon. This is from the actions of the people of innovation who set up individuals or speech for themselves causing by it difference in the Ummah, befriending over such speech or this attribute, and taking up enemies over it." 1/(20:164).

The second type: Difference in fundamentals and Math'habs (ways) of belief:

This is the difference by which the innovating sects have split off the congregation of the Muslims, its people have become parties and groups. This dragged upon the Ummah what is dragged of trials and cracks. We shall present in this quick work the most important of what distinguishes this type of difference, and the methodology of the people of Truth in dealing with it throughout history.

The origin of this difference:

This difference originates form partisanship established upon whole fundamentals or principles in The Faith that differed with what the saved sect is upon, or upon much made-up branch matters. This results in contradiction to much of Islamic Legislation.

Causes of this difference:

AL-Shatiby, may Allah's Mercy be upon him, mentioned for the cause of this difference three reasons:

1. *Difference in the fundamental of belief and whole principles of The Faith.*

It goes back to people's difference in worshipping Allah alone without an associate, and directing actions to The One, The Truth, The All Praised, The All High, without any other partner, in worship, legislation, love and hate.

2. Following desires.

This is why people of innovation have been called people of desires. This is because they followed their desires and did not take Islamic legislative proofs as a matter they are really in need of and seek to depend on, before abandoning it. In stead, they put their desires in front, they relied upon their opinions, and then they considered the Islamic legislative proofs on the basis of their desires.

3. *Insistence upon following customs, even if they be corrupt or they be contradictory to The Truth.*

This is following what forefathers, Shaykhs, and the like were upon without evidence from Allah or His Messenger, and this is the dispraised following.

The sum of these reasons is ignorance of the aims of Islamic Legislation and taking from them by a superficial understanding. Then he mentioned that the sum of these reasons is ignorance of the aims of Islamic Legislation, guessing at its meanings through presumption without verification, and taking from them by a superficial understanding. This is not the way of the one established in knowledge. This is as the one upon whom be Blessing and Peace said about the *Khawaarij*, "They recite Al-Qur'an but it does not pass their throats," meaning they do not learn it so that it reaches their hearts, but they stop at the point of sounds and letters only, a level that is shared by those who understand and those who do not understand. This is why Ibn 'Umar said about them, as Naafi' reports from him when he was asked what was Ibn 'Umar's opinion about the *Harooriyya* (a *deviant* sect); he said, "He sees them to be the worst of Allah's creation. They went to verses revealed about

the disbelievers and made them about the believers." 3/(2:182 - 183).

Shared characteristics that join the people of this difference:

The people of such desires share a number of descriptions and characteristics summarized as follows:

1. *Excessiveness in The Faith.*

The Messenger of Allah (S) has warned us about this when he said: "Beware of excessiveness in The Faith. The people before you have perished by their excessiveness in The Faith." (Shaykh Al-Albany's *Saheeh-Aljaami' Alssagheer* ,2680).

2. *Fanaticism and transgressing upon the one differed with.*

People of desires put forward their corrupt opinions to be The Truth, apart from which is only misguidance. They make for it names that spread among the common people, and bring upon the one differed with all they can of dispute and ill-manner, and they attribute him to disbelief, corruption, and innovation in a bold audacity and evil harshness. This is because they always link error with sin and make them associated. So they make areas of Ijtihad and even rewards sins, and they may make sins disbelief, in addition to what that causes of hating Muslims, declaring their blood permissible for shedding, and falling into transgressing their sanities unjustly. Shaykh Al-Islam Ibn Taymiyyah, may Allah's Mercy be upon him, said, "Whoever befriends the one agreeing with him and takes as an enemy the one differing with him, divides between Muslims, declares disbelief and corruption upon the other with whom he differs in

matters of opinion, and Ijtihad, and allowed fighting the one offered with, such are from the people of divisiveness and difference." 14(3:349).

Imam Ibn Abi Al-Izz confirmed these meanings and said: "Most of the difference that ends up in supporting desires between the Ummah is from the first division. It is also the cause of blood shedding, enmity and hatred. This is because one of the two parties would not acknowledge the truth that the other party has and would not be fair with it. In stead, it adds to the truth it has additions of falsehood while the other would do the same!!." 2:290.

3. *Establishing love and hate for Allah over their corrupt opinions.*
4. *Degrading the Ummah scholars, and transgressing upon those inviting to Allah, and reformers.*

The legislative Islamic methodology for dealing with this difference:

The principle ruling on difference in fundamentals and mathhabs of belief is dispraise. This is what has torn the Muslim unity, divided their word, and is from the principal causes for what the nation has undergone of trials and calamities throughout history. The people of such difference are the people of desires whose dispraise has been stated upon the tongue of the Prophet upon him be Blessing and Peace when he said, "*The people of The Two Books have divided in their Faith into seventy two groups, and this nation shall divide into seventy three groups.*"- *meaning of desires- "all going to The Fire, except one, which is the congregation."* (Authenticated by Al-Albaany in Silsilat *Al-Ahaadeeth Alsaheehah*; And in the footnote of *Al-Tahawiyyah*, p 371).

Admonishment and dissociation:

The Sunnah has shown admonishment of people of desires through dissociation and other Islamic legislative punishments, pushing away their harm from The Faith; preserving The Sunnah from being mistaken with something from these desires; punishing the one who dissociates and teaching him a lesson; showing the common people to avoid a situation such as his; and other than this of accepted Islamic legislative aims in this area.

The Legislator's aim from dissociation:

Al-Shaatibiy, may Allah's Mercy be upon him, said: "Respecting a person of innovation leads to two harms that brings destruction upon Islam:
One of them: The attention of the ignorant and common people to that respect may let them believe that this innovator is the most virtuous of people, and what he is upon is better than what others are upon. This would lead to following him upon his innovation rather than following the people of The Sunnah upon their Sunnah.
The second: That if he is respected for his innovation, this may become like an encouragement for him to establish innovations in everything. Hence, innovations would then be brought to life and Sunnahs would die, which is sheer destruction of Islam..." 3/(**1**:114).

Islamic legislative conditions in dissociation:

Dissociation from people of desires, like other acts of worship,

needs to have two pillars to be accepted: Sincerity and adherence to The Sunnah. Therefore, dissociation due to desires is a shortcoming in sincerity, and dissociation that contradicts the balance of Islamic Legislation is contradicting adherence to The Sunnah. By joining both sincerity and adherence to The Sunnah, such dissociation becomes a means of getting nearer to Allah through an action that makes the scales heavier for a person on The Day of Resurrection. Now, what is the balance of Islamic Legislation in dissociation, or in other words, what are the Islamic legislative conditions that should be fulfilled in dissociation so that it occurs upon the balance of Islamic Legislation, and that the one doing it is not blamed in the way he is keeping to the straight path or following The Sunnah?

We may summarise such conditions as follows:

1. Fulfilling the causes necessitating dissociation.
2. Fulfilling dissociation for its Islamic legislative aims like punishing the innovator and urging the common people to renounce his situation, and preserving The Sunnah from contamination with innovations.
3. That the required benefit from dissociation does not cause overall harm.
4. That the admonishment should be proportionate the degree of harm.

We shall consider each one of these conditions with appropriate words as follows:

First condition: Fulfilling the causes that necessitate dissociation:

Dissociation is a type of punishment, and punishment is not carried out but for a reason, other wise, it becomes a type of unjust oppression and transgression. Confirmation of the reason that necessitates dissociation entails verification of what follows:

1. ***Verifying what requires public duty (hisba):***
Here this is an innovation which is agreed upon. If it is in the area of Ijtihad and opinion, then hisba is not permissible in this case- as mentioned previously.
2. ***Verifying that knowledge of The Truth has been conveyed to the person:***
The principle in this is that the ruling of revelational obligation is not binding on the right of the accountable person, unless he already got the knowledge of it. This is due to The All High's Words, *"that I may warn you with it, and whoever this may reach."* (Al'an'aam: Surah: 6/ 19).
3. ***Starting with admonishment, advice, and instilling fear of Allah The Almighty and The All High.***

Second condition: Fulfilling dissociation for its Islamic legislative aims:

Shaykh-Al-Islam Ibn Taymiyyah, may Allah's Mercy be upon him, said, "and such dissociation differs with those who perform dissociation according to their strength or weakness,

and little or great number. The aim of it is to admonish the one dissociated from, to teach him, and to put the public away from the like of what he is upon. If the benefit in this dissociation is greater, so that it leads to weakness and disappearance of the evil, then it will be legitimate in Islam. However, if neither the one dissociated from nor anyone else is put off by this, but evil increases, and the one performing dissociation is weak so that the harm in this is greater than its benefit, dissociation in this case is not legitimate in Islam. Rather, amicability for some people may be more beneficial than dissociation." 1/(28:206).

Third condition: That the required benefit from dissociation does not cause overall harm:

If the required benefit from dissociation causes overall harm by leaving a benefit greater than the benefit based on such dissociation, or by achieving a greater harm which Allah is angry with it more than with the harm of the innovation, dissociation is not Islamically legislated in this case. Amicability is then more beneficial, and more befitting with the Islamic Legislation's aims. Shaykh-Al-Islam Ibn Taymiyyah, may Allah's Mercy be upon him, said, "and what is ordered of dissociation in leaving and ceasing to talk to a person, and dissociation of punishment and admonishment, if it has no overall religious benefit upon its action. and if the evil action there is overall good, it is not evil, and if in the punishment there is overall harm upon the crime, it is not then a good action, but it is evil, and if they are equal, then it is neither good nor bad." 1/(28:112).

From the implementations of this condition

1. ***Establishing religious obligations with some innovators or corrupt people (is allowed), when it is not possible to establish them properly with others. This is because the harm of leaving such obligations is greater than the harm of what these people have of innovations and transgressions.***

Shaykh-Al-Islam Ibn Taymiyyah, may Allah's Mercy be upon him, said, "So of it is not possible to establish obligations of knowledge, striving in the cause of Allah, and other than that, except for those who have an innovation that its harm is less than the harm of leaving that obligation, in this case, achieving the benefit of that which is obligatory with a lesser evil with it, is better than the converse." 1/(**28**:212).

Imam Ibn Abi Alizz, the Hanafi, said: "We are on the opinion that prayer is permitted behind every righteous and corrupted from the people of the Qiblah, and that prayer is permitted on every dead person of them." 2/(203).

Al'izz Ibn Abd Alssalam said in the context of discussion about putting forward Imams who are less corrupt when their levels differ, "If it is said, Can one fight along with one of them to establish his rule and continuity, together with supporting him in his disobedience?,' we say, Yes, to avoid the greater of the two harms of the two corruptions, and pushing back the more evil, than the lesser evil." (***Qawaa'id Al-Ahkaam*** **1**:87).

2. ***Linking the Islamic Legislation of enjoining and forbidding to the overall benefit or harm when good and evil coexist in one issue:***

Shaykh Al-Islam Ibnu Taymiya, may Allah's Mercy be upon him, said, "Based upon this, if the person or group gather both good and evil in away that they do not separate between them, and they may perform both or leave both, it is not permissible to enjoin them to good nor to forbid them from evil. Rather, the issue is reconsidered: if the good is more, it is enjoined even if it is accompanied by a lesser evil, and the evil that would lead to leaving a greater good is not forbidden. In this case, forbidding would be an obstacle in acting in Allah's Way, and hastening in removing His obedience and the obedience of His messenger, and removing performing good actions.

If the evil is greater, it is forbidden, even if this leads to leaving what is less than it of good. Enjoining this good that is accompanied by a greater evil then becomes enjoining evil and hastening in disobeying Allah and His messenger. If both good and evil are equal, they are not enjoined nor are they forbidden from. In one instance enjoining may be beneficial, and in another instance forbidding may be beneficial, and in another instance neither enjoining nor forbidding may be beneficial, since both good and evil coexist. This is in the specific contemporary issues." 1/(**28:**129 - 130).

Imam Ibn Abi Al-Izz, the Hanafi, said: "The prayer itself of the corrupted and innovator is valid. If someone prayed behid him, his prayer is not invalid, but it was disliked for his dispraised manners; because enjoining good and forbidding evil is a WAJIB. ..If it was possible for the person not show an aspect of condemnation to the leadership of prayer, it would be obligatory upon him to keep to it. But if such a leader was appointed by someone else and the person was not able to draw him away from leadership, or he would not be able to do so except with an evil that is more harmful than the evil of the

condemnation showed, then it is not allowed to avoid the lesser corruption with a greater one or drawing away the lesser harm with the occurrence of the greater harm. Indeed, divine legislations are meant for fulfilling and perfecting benefits and stopping and diminishing corruption as much as possible." 2/(204).

3. ***The degree of condemnation should be proportionate to the degree of transgression:***

This implies differentiating between levels of innovations themselves, the levels of those upon them, and the misconceptions that have surrounded innovations and innovators, in time and place.

- For innovations are not on one level: some are plain disbelief, some are disobedience, and some are disliked.
- People of innovation are not equal: There is the one declaring his innovation and inviting to it, the one who does it secretly, and the one concealing it. There is the one insisting upon his innovation and the one ignorant of it. So one should dissociate from and punish the one inviting to it and declaring it, as opposed to the one concealing it for he is no more evil than the hypocrites that the prophet, may Blessing and Peace be upon him, used to accept their apparent state and relegate their secrets to Allah The Almighty and The All High, whilst they are in the lowest levels of The Fire.
- The circumstances that have surrounded innovations, its people in time and place are not on one level: There are the places where Sunnan (traditions of the Prophet, S) are established and the dominance is for its people, as

was Al-Madina at the time of Imam Malik-Ibn Anas for example. There are also places where innovations are much, like those rejecting Qadar (predestiny) in Albassra, Shee'ism in Alkoofa, and astrology in Khurasaan, at the times that followed the time of the rightly-guided caliphs. Imam Ahmad permitted for narration to be taken from the people of Albassra despite the great amount of rejection of predestiny in them, for fear that knowledge and narrations they preserve would disappear. There is also a difference between land of Islam and land of disbelief.

Shaykh Bakr Abu Zayd says in his book Hajr *Almubtadi'*, Dissociating from The Innovator,' "If the dominance and authority was for the people of The Sunnah, then the Islamic Legislation of dissociating from the innovator is established upon its principles. However, if the strength and greater number is for the innovators- and there is no ability nor power but from Allah- so that neither the innovator nor other than him is put off by dissociation and the Islamic legislative aim is not achieved, dissociation then is not legislated, and one would then take the way of amicability, for fear of increase in evil." (Shaykh Bakru Abu Zayd's *Hajr Almubtadi'* p 45).

From here the importance of these regulations become apparent in defining the conditions of this worship, and protecting it from abstention or excessiveness, especially in the West where the estrangement of The Faith is general, trials are spread, and Muslims' efforts are weak in practice and commitment, and there is no Ability nor Power but from Allah!

The third type: Difference in war issues, political opinions and delebration:

Imam Al-Subky, may Allah's Mercy be upon him, said, "Difference is of three types. One of them is in fundamentals, and it is what Al-Qur'an points to, and there is no doubt that such difference is an innovation and a misguidance. The second is in (political) opinions and wars, which is also prohibited of what is in it of violation of benefits. The third is in side issues, such as difference in what is permitted and what is prohibited and the like." (See *Al'ibhaaj* by Imam Al-Subky, **3**:13).

There is no doubt that difference in this area, if leads to division and partisanship with each party to its opinion, and to pushing away what is between them of closeness and supports, it is dispraised without argument. However, if it remains in the area of consultation and delegation in which each party participates with its own opinion, supports it with possible proofs, listens to others' opinions, and in which matters are investigated from its different aspects, estimating benefits and harms, and they all accept at the end the opinion of the congregation and overall benefit, there is no harm in this. Moreover, this is what the sacred Texts require, and have made it a characteristic attributed to the congregation of Muslims.

The effect of this type of difference in our present times:

It is quite obvious that many of the matters differed in between groups of Islamic activity in The West go back to this type of difference. This is because they revolve on the whole around difference in ordering priorities, estimating benefits and harms,

balancing them out, and the like. The difference related to this area has possible different interpretations, and it depends on human experience and contemporary awareness more than it depends on Islamic jurist opinion, and mere scholarly awareness.

The beginning of following guidance in dealing with this type of difference is to place it in the above frame, and that those disputing know at the beginning that they are disputing in Ijtihad matters depending on contemporary awareness and ability for precise balance between benefits and harms, and that there is no room in it for criticising anyone's belief, or doubting his fairness. The real problem and defective is when the difference in such matters delves into the areas of declaring innovation and misguidance of the one differed with, and then proofs are amassed in this of Texts that are non-definitive. Then each group would form a party according to their opinion, none of them having definitive Revelation permitting them the harshness upon others except opinion, war and plans. This then would lead to dividing the common standpoint of Muslims and spoiling their relationships.

The scholarly and practical methodology for solving this difference:

It is necessary to define the areas which are possible for co-ordination and co-operation, and to define the stages that need to be taken in achieving this aim, the aim of integration. From the proposed possibilities in this matter is:

1. ***Exchanging speakers between such groups.***
2. ***Participation in some Islamic legislative courses, conferences inviting to Allah, and social activities.***

3. ***Forming common committees for consultation, co-ordination, and solving disputes.***

Finally: It is only left for me to say as the righteous slave, the prophet of Allah, Shu'ayb, may Peace be upon him, said, *"I only wish reform what I am able for; and my Success is not but from Allah, upon Him I rely and unto Him I repent."* (Surat Hood 11/ 88).

May Allah's Peace and Mercy be upon you.

Your brother
Abu Salmaan
08/06/2003 CE

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